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Letter dated 3 May 2018 from the Permanent Representative of Poland to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the presidency of the Republic of Poland, the Security Council is scheduled to hold an open debate on the subject "Upholding international law within the context of the maintenance of international peace and security" on 17 May 2018. In order to help guide the discussion during the above-mentioned event, Poland has prepared the attached concept note (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council, in connection with the item entitled "Maintenance of international peace and security".

(*Signed*) Joanna **Wronecka**
Ambassador

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Annex to the letter dated 3 May 2018 from the Permanent Representative of Poland to the United Nations addressed to the Secretary-General

Concept note for the Security Council open debate on upholding international law within the context of the maintenance of international peace and security, to be held on 17 May 2018

Introduction

1. The Charter of the United Nations, in its Preamble, states clearly the determination of the "peoples of the United Nations" to "establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Article 1 of the Charter spells out the purposes of the United Nations, including:

> to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

2. Under Article 24 of the Charter, the primary responsibility for working towards the purposes and principles enshrined in the Charter is conferred on the Security Council. In discharging its functions, the Council has repeatedly declared its commitment to international law and to an international order based on the rule of law. On numerous occasions, the Council has reiterated its commitment to and support for the peaceful settlement of disputes, calling upon Member States to settle them by peaceful means, as set forth in Chapter VI of the Charter. It has also emphasized the key role of the International Court of Justice, the principal organ of the United Nations for the adjudication of disputes among States, and the value of its work.

3. The Security Council has reaffirmed many times its strong opposition to impunity with regard to serious violations of international humanitarian law and human rights law and its intention to uphold accountability. While recognizing the contributions of the international courts and tribunals to fighting impunity, the Council has emphasized the responsibility of States to comply with their obligations to end impunity. In particular, it has called upon them to cooperate with the above-mentioned institutions to thoroughly investigate and prosecute persons responsible for genocide, crimes against humanity and war crimes, as well as other serious violations of international humanitarian law and human rights law, in order to prevent their recurrence and seek sustainable peace, justice, truth and reconciliation.

4. Despite this often-declared strong stance and commitment of past and present members of the Security Council, in many parts of the world, violations of international law, in particular of humanitarian law and human rights law, as well as an insufficient implementation of Council resolutions, persist and continue to have an adverse impact on, inter alia, international peace and security. The resulting proliferation of large-scale, often brutal conflicts and multifaceted crises leads to devastation, immeasurable suffering, mass displacements, the hindering of economic and social advancement and other unacceptable consequences.

Objectives

5. It would be of merit to take a step back from the Security Council's everyday deliberations and to reflect on the state of respect for international law in the context

of the maintenance of international peace and security, as well as on what could be done to improve it. Consequently, the aim of the debate is to consider in particular the Council's role and possible further activity in the instances described above, with a focus on:

(a) Promoting the peaceful settlement of disputes, including through the employment of appropriate means set forth in, inter alia, Chapter VI of the Charter: diplomacy, calling for negotiation, enquiry, good offices, mediation, conciliation, arbitration, judicial settlement in particular by the International Court of Justice, resorting to regional agencies or arrangements as well as to other peaceful means, with a view to preventing and ending conflicts;

(b) Increasing respect for international law, in particular international human rights law and international humanitarian law, during conflicts in the context of the emergence of new kinds of threats therein and the evolving nature of conflicts;

(c) Upholding accountability, in particular for the most serious violations of international humanitarian law and human rights law, including by considering steps towards facilitating the investigation and prosecution of the individuals responsible for them, with full respect for due process and the rights of the defence, and supporting efforts aimed at developing, as appropriate, national or international investigative, prosecutorial and witness protection capacities.

Format, participants and outcome

6. An open debate under the presidency of Poland is envisaged to include briefings on behalf of the Secretary-General and the President of the International Court of Justice. It will be chaired by the President of the Republic of Poland, Andrzej Duda. Representatives of States that are not members of the Security Council are invited to make interventions of no longer than three minutes, focused on practical proposals of action aimed at upholding international law within the context of the maintenance of international peace and security. In particular, suggestions regarding raising awareness of Council resolutions relevant to the issues outlined above and enhancing their implementation, including through assistance to States at their request, would be welcome.

7. A summary of the debate is to be circulated in order to facilitate the Security Council's possible follow-up on specific proposals.

Indicative questions for consideration

8. Members could consider the following questions during the open debate:

(a) In what innovative ways could the Security Council advance the peaceful settlement of disputes? What partnerships could be envisaged in that respect and how could they be fostered?

(b) What avenues could be pursued to strengthen, in particular, respect for international obligations, which is critical to the maintenance of international peace and security? How could the promotion of justice and the rule of law, including respect for human rights and for international humanitarian law, be further integrated into the work of the Security Council?

(c) What would be the most effective responses to be considered in instances of flagrant violations of international law, in particular international human rights law and international humanitarian law, that affect international peace and security?

(d) How can the Security Council encourage and support accountability for serious violations of international humanitarian law and human rights law?